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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Marco Maritan

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7590

04/01/2008

WHIRLPOOL PATENTS COMPANY - MD 0750  
500 RENAISSANCE DRIVE - SUITE 102  
ST. JOSEPH, MI 49085

EXAMINER

BUSHEY, CHARLES S

ART UNIT

PAPER NUMBER

1797

MAIL DATE

DELIVERY MODE

04/01/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/516,467	<b>Applicant(s)</b> MARITAN ET AL.	
	<b>Examiner</b> Scott Bushey	<b>Art Unit</b> 1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 29 January 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-8, 10-13, 15-18 and 20 is/are rejected.
- 7) ☒ Claim(s) 4, 9, 14 and 19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 January 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1-29-08</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1-3, 5, 7, 11-13, 15, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rudick '949 taken together with Crisp, III et al '071, and further in view of Rudick '351.

Rudick '949 (Figs. 3-6; col. 2, lines 45-55; col. 3, lines 14-17, 50-56) substantially discloses applicant's invention as recited by instant claims 1-3, 5, 7, 11-13, 15, and 17, except for the carbon dioxide cylinder being specifically located within the door of the refrigerator, the cylinder and carbonation chamber being in communication via a needle

valve, and the apparatus being capable of delivering either still water or carbonated water.

Crisp, III et al '071 (Figs. 24B, 26; col. 24, lines 15-32; col. 26, lines 64-67; col. 27, lines 41-58; col. 29, lines 1-50; col. 31, lines 36-53; col. 32, line 66 through col. 33, line 6; col. 35, lines 11-26) disclose a carbonator within a refrigerator door similar to that of Rudick '949, wherein the carbon dioxide gas cylinder is specifically located within a shuttered access within the door of the refrigerator (see Figs. 24B and 26), and the cylinder is in communication with the carbonation chamber via a needle valve (col. 35, lines 11-26). It would have been obvious for an artisan at the time of the invention, to modify the refrigerator door and the connection between the gas cylinder and the carbonator of the primary reference, in view of Crisp, III et al '071, since such would provide convenient access and facilitate quick change capability of the gas cylinder within the Rudick '949 apparatus.

Rudick '351 (Figs. 3, 4, and 7; col. 4, lines 65-68; col. 7, lines 30-37) discloses a refrigerator door based carbonation system similar to that of Rudick '949 and Crisp, III et al '071, but wherein it is specifically disclosed that the apparatus may be alternatively used to dispense either still water or carbonated water through the same dispensing nozzle. In view of the clear teaching by Rudick '351, it would have been obvious for an artisan at the time of the invention, to provide the apparatus combination as suggested by Rudick '949 taken in view of Crisp, III et al '071, with the capability of delivering either still or carbonated water through the same dispensing nozzle, since such would improve the convenience and overall usefulness of the device.

4. Claims 10 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over the reference combination as applied to claims 1-3, 5, 7, 11-13, 15, and 17 above, and further in view of Rona et al.

The reference combination as applied to claims 1-3, 5, 7, 11-13, 15, and 17 above substantially disclose applicant's invention as recited by instant claims 10 and 20, except for indicator means being provided so that a user knows when the gas cylinder is empty and in need of replacement.

Rona et al (paragraph [0026]) disclose a carbonator apparatus similar to that of the primary reference combination, which further includes user interface means including indicators that allow the user to quickly tell when the apparatus is operating properly and when it needs routine maintenance. It would have been obvious for an artisan at the time of the invention, to provide the apparatus as suggested by the primary reference combination, with convenient indicators, in view of Rona et al, since such would allow the user to conveniently assess the operability of the device, whereas an empty gas container would preclude the proper operability of the device.

5. Claims 6, 8, 16, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over the reference combination as applied to claims 1-3, 5, 7, 11-13, 15, and 17 above, and further in view of Hancock et al.

The reference combination as applied to claims 1-3, 5, 7, 11-13, 15, and 17 above substantially disclose applicant's invention as recited by instant claim 6, 8, 16, and 18, except for a safety pressure relief valve means and switch means to avoid dangerous overpressurization of the device.

Hancock et al (Figs. 3 and 19; col. 7, lines 25-27; col. 16, lines 67-68; col. 17, lines 25-30, 60-66) disclose a carbonation apparatus within a refrigerator similar to the primary reference combination, wherein there is provided safety pressure relief valve means and switches that respond to various actuators to prevent improper operation of the device. It would have been obvious for an artisan at the time of the invention, to modify the apparatus as suggested by the primary reference combination to include safety pressure relief valve means and switch means to prevent operation of the device when potential dangerous situations exist, in view of Hancock et al, since such would protect the user from injury, while providing a reliably operating device.

***Allowable Subject Matter***

6. Claims 4, 9, 14, and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

7. Applicant's arguments with respect to claims 1-3, 5-8, 10-13, 15-18, and 20 have been considered but are moot in view of the new grounds of rejection, which were necessitated by applicant's amendments to the claims.

***Conclusion***

8. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Bushey whose telephone number is 571 272-1153. The examiner can normally be reached on M-Th 6:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1797

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Scott Bushey  
Primary Examiner  
Art Unit 1797

/S. B./  
3-30-08

/Scott Bushey/  
Primary Examiner, Art Unit 1797